

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 1384 OF 2007

CFL Capital Financial Services Ltd..... Petitioner

versus

The State of Maharashtra & ors..... Respondent.

Shri V.B.Pandey for the petitioner
Shri Y.S.Shinde APP for the State.

**CORAM; A.P. DESHPANDE, J.
DATED; 26TH NOVEMBER, 2007**

P.C.;

1. This Criminal Writ Petition is filed by the original complainant taking an exception to an order passed by the Additional Sessions judge, Greater Mumbai dated 23-4-2007 allowing the Criminal Revision Application filed by the original accused No.5 for quashing the order passed by the trial court, issuing process of summons against the said accused. Perusal of the complaint reveals that the only averment made against accused no.5 is what is contended in paragraph 8 which reads thus:

"I say that Accused no.1 through accused nos. 2 to 10 who are the Chairman, Managing Director and Directors of the Company and who are responsible for the management of the

company, had issued the said cheques....."

2. The revisional Court, on perusal of the complaint and the verification statement, has concluded that the only averment against accused no.5 made in the complaint is to the effect that he is one of the Directors of the accused no.1 company and therefore he is responsible. It is further found that the accused no.5 is not in charge of financial activities nor was he the signatories to the cheques which were dis-honoured. The revisional Court has held that the accused no.5 is not shown to be incharge or responsible to the company for conduct of the business and hence cannot be made liable under section 141 of the N.I.Act. Reliance is placed on the law laid down in the case of **S.M.S. Pharmaceuticals limited** and other judgments following the said judgment.

3. Perused the impugned order passed by the Sessions Court. The same goes to take a possible view of the matter which does not call for any interference in exercise of writ jurisdiction. Hence writ petition is summarily dismissed.

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